

VICKI A. O'MEARA
Acting Assistant Attorney General
Environment and Natural Resources Division

PHILLIP A. BROOKS
Environmental Enforcement Section
United States Department of Justice
301 Howard Street, Suite 870
San Francisco, CA 94105
Telephone: (415) 744-6483

PAUL G. WOLFTEICH
IRYNA A. KWASNY
Environmental Enforcement Section
United States Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-3482

LOURDES G. BAIRD
United States Attorney
Central District of California

PETER HSIAO
Assistant United States
Federal Building
Room 7516
300 North Los Angeles Street
Los Angeles, California 90012
Telephone: (213) 894-6117

Attorneys for Plaintiff United States of America

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
PEOPLE OF THE STATE OF
CALIFORNIA, et al.,

Plaintiffs,

v.

J.B. STRINGFELLOW, JR.,
et al.,

Defendants,

CIV 83-2501 JMI

[proposed] CONSENT DECREE

ENTERED
10/23/92

1 WHEREAS, the United States of America ("United States")
2 on behalf of the Administrator of the United States Environmental
3 Protection Agency ("EPA"), filed the Complaint in this action on
4 April 21, 1983, against numerous entities including Alcan Aluminum
5 Corporation ("Alcan") pursuant to, inter alia, Section 107 of the
6 Comprehensive Environmental Response, Compensation, and Liability
7 Act ("CERCLA"), 42 U.S.C. § 9607, as amended, for injunctive relief
8 and recovery of costs incurred by the United States in responding
9 to releases or threatened releases of hazardous substances at the
10 Stringfellow Superfund Site;

11 WHEREAS, Alcan desires to participate in remedial actions
12 at the Site prior to final resolution of this action;

13 WHEREAS, the United States and Defendants agree that
14 entry of this Consent Decree is in the public interest;

15 NOW, THEREFORE, without adjudication of any issue of fact
16 or law and upon consent of the parties hereto, it is hereby
17 ORDERED, ADJUDGED and DECREED as follows:

18 I. JURISDICTION

19 1. This Court has jurisdiction of the subject matter
20 and has personal jurisdiction over the parties hereto pursuant to
21 28 U.S.C. §§ 1331, 1345, 1355 and 1395(a), and 42 U.S.C. §§ 9607(a)
22 and 9613(b). The Complaint of the United States states a claim
23 upon which relief can be granted. The Parties hereto agree to be
24 bound by the terms of this Consent Decree and not to contest its
25 validity in any subsequent proceeding.
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II. PARTIES BOUND

2. This Consent Decree shall be binding upon Defendant Alcan Aluminum Corporation, its successors in interest and assigns and upon the United States on behalf of the U.S. EPA. Each undersigned representative of Alcan certifies that he or she is fully authorized to enter into and execute this Partial Consent Decree on behalf of Alcan.

III. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., or in regulations promulgated under those Acts shall have the meaning assigned to them in such Acts or regulations. Whenever terms listed below are used in this Consent Decree or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

"EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

1 "Mid-Canyon Pretreatment Plant" refers to the water
2 treatment facility, its appurtenances, and associated system of
3 wells, pumps, tanks, piping, and other facilities that were
4 selected as a remedial action through the 1984 ROD, or that were or
5 will be added to that facility pursuant to the 1987 and 1990 ROD's
6 or to comply with any provision of law.
7

8 "National Contingency Plan" or "NCP" shall mean the
9 National Oil and Hazardous Substances Pollution Contingency Plan
10 promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605,
11 codified at 40 C.F.R. Part 300, including, but not limited to, any
12 amendments thereto.

13 "Parties" shall mean the United States and Alcan.

14 The "1984 Record of Decision" or "1984 ROD" shall mean
15 the EPA Record of Decision relating to the Site signed on July 18,
16 1984 by the Administrator of EPA, and all attachments thereto.

17 The "1987 Record of Decision" or "1987 ROD" shall mean
18 the EPA Record of Decision relating to the Site signed on June 25,
19 1987 by the Deputy Regional Administrator, EPA Region IX, and all
20 attachments thereto.

21 The "1990 Record of Decision" or "1990 ROD" shall mean
22 the EPA Record of Decision relating to the Site signed on
23 September 30, 1990, by the Regional Administrator, EPA Region IX,
24 and all attachments thereto.

25 "Site" shall mean the Stringfellow Hazardous Waste
26 Superfund site, located in and around Pyrite Canyon and the
community of Glen Avon in Riverside County, California.

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2 IV. UNDERTAKING OF ALCAN ALUMINUM

3 4. Alcan shall pay all costs incurred by the United
4 States in connection with the operation and maintenance of the Mid-
5 Canyon Pretreatment Plant during the four calendar years commencing
6 January 1, 1992, and concluding December 31, 1995. These costs
7 include, but are not limited to:

8 A. All direct and indirect costs incurred (payroll,
9 benefits, travel, overhead, etc.) pursuant to Inter-
10 Agency Agreement ("IAG") Number DW96931513-01-0
11 between the United States Environmental Protection
12 Agency and the U.S. Army Corps of Engineers (the
13 "Corps") and its amendments or modifications; or any
14 superseding Inter-Agency Agreement (or other form of
15 agreement) entered into for the operation and
16 maintenance of the Mid-Canyon Pretreatment Plant.

17 B. All direct and indirect costs incurred under any
18 contract for any aspect of operation and maintenance
19 of the Mid-Canyon Pretreatment Plant including the
20 current contract between the Corps and Camp Dresser
21 & McKee (Contract Number DACW09-90-C-0006); any
22 contract let pursuant to the Invitation for Bid,
23 Solicitation Number DACW09-91-B-0011; any contract
24 let to replace or supersede either of the forgoing;
25 any other contract let to obtain goods or services
26 in connection with the operation and maintenance of

1 the Mid-Canyon Pretreatment Plant; and any
2 amendments and change orders to any of the forgoing.

3 C. All direct and indirect costs incurred by the
4 United States for the oversight of work performed in
5 connection with the operation and maintenance of the
6 Mid-Canyon Pretreatment Plant.

7 D. All direct and indirect costs incurred by the
8 United States for administration of any Inter-Agency
9 Agreement or contract relating to the operation and
10 maintenance of the Mid-Canyon Pretreatment Plant and
11 all direct and indirect costs incurred in connection
12 with the administration or enforcement of this
13 Consent Decree. Such costs include, but are not
14 limited to, costs incurred: in the contract
15 solicitation, review, and procurement process for
16 contracts or IAG's relating to operation and
17 maintenance of the Mid-Canyon Pretreatment Plant;
18 preparation of the Demand for Payment pursuant to
19 Paragraph 6 below; review of Value Engineering
20 Change Proposals submitted pursuant to Paragraph 13
21 below; and, actions taken to secure Alcan's
22 compliance with this Consent Decree.

23 5. For the purposes of this Consent Decree a cost will
24 be deemed to have been incurred as follows: (A) direct and indirect
25 costs for work performed by EPA and Corps personnel are incurred on
26 the date the work was actually performed or service was rendered;

1 (B) costs incurred under any contract for the operation of the Mid-
2 Canyon Pretreatment Plant are incurred as of the date of the
3 purchase of goods or provision of services as indicated on the
4 request for reimbursement prepared by the Corps, as described in
5 Paragraph 6 below; and (C) any other cost is incurred on the date
6 the invoice or other request for payment indicates goods were
7 purchased or services were provided. If the date of purchase or
8 provision of service is not reflected on the relevant invoice or
9 other request for payment, the cost will be deemed to have been
10 incurred when EPA receives the invoice or request for payment. EPA
11 shall be deemed to have received any payment or reimbursement
12 request as of the date it is received by an EPA Remedial Project
13 Manager.

14 6. Pursuant to the IAG between the Corps and EPA,
15 periodically, the Corps sends to EPA a request for reimbursement
16 for direct and indirect costs incurred for operation of the Mid-
17 Canyon Pretreatment Plant. Not more frequently than every 30 days,
18 EPA or the Corps may send Alcan a copy of the Corps' request for
19 reimbursement and any other invoice, bill, or request for payment
20 for costs for which Alcan is responsible hereunder. EPA may, but
21 is not obligated to, bill Alcan annually for EPA direct and
22 indirect costs. For the purposes of this Partial Consent Decree,
23 transmittal of any request for reimbursement, invoice, or bill to
24 Alcan shall constitute a Demand for Payment. Alcan shall, within
25 35 days of receipt of a Demand for Payment, deliver a certified
26 check to the designated Superfund lockbox for the total amount of

1 the Demand for Payment. A payment shall be considered timely if it
2 is received by EPA at the designated P.O. Box on or before the
3 thirty-fifth day after the date Alcan receives a Demand for
4 Payment: a payment received after the thirty-fifth day is
5 delinquent.

6 7. All Demands for Payment pursuant to this Consent
7 Decree shall be sent to:

8 Alcan Aluminum Corporation
9 Post Office Box 6977
10 Cleveland, OH 44101
11 Attention: Treasurer

RON CASEY

12 8. In the event that EPA subsequently adjusts any
13 Demand for Payment, the adjustment will be reflected in a
14 subsequent Demand for Payment and Alcan shall be required to pay
15 only the adjusted amount. Regardless of whether any cost included
16 in a Demand for Payment is disallowed or for any reason is deemed
17 an inappropriate expense by EPA after it has been paid by Alcan,
18 Alcan shall receive full credit for the amounts it has paid into
19 the Superfund as against any claim made in this action by the
20 United States. EPA's demand for payment shall not constitute a
21 waiver by EPA of the right to recover any amounts not included in a
22 Demand for Payment pursuant to Paragraph 6 above, but which were
23 incurred in connection with the operation and maintenance of the
24 Mid-Canyon Pretreatment Plant.

25 9. As security for the payment obligations under this
26 Consent Decree, Alcan shall establish and maintain one or more

1 irrevocable standby letters of credit in the amount of
2 (a) \$2,000,000 from January 1, 1992 through December 31, 1993, and
3 (b) \$3,500⁷⁰⁵,000 from January 1, 1994 until termination of this
4 Decree, that will provide for payment of Alcan's obligations
5 hereunder in the event Alcan fails to make any payment(s) required.
6 The letters of credit shall be established with a federally
7 chartered bank acceptable to the United States. The standby
8 letters of credit shall designate as sole beneficiary the "EPA
9 Hazardous Substances Superfund." The standby letters of credit
10 shall provide that at all times EPA shall be entitled to collect a
11 minimum of the face amount of the letter of Credit (\$2,000,000 from
12 1/1/92 through 12/31/93 or \$3,500,000 from 1/1/94 through
13 termination of this Consent Decree) as payment of any obligation
14 arising under Paragraphs 6 and/or 17 of this Decree, as such sums
15 become due. The standby letters of credit shall also provide for
16 payment of the entire face amount (\$2,000,000 1/1/92 through
17 12/31/93 or \$3,500,000 1/1/94 through termination of this Consent
18 Decree) in the event of a default under Paragraph 11 below.

19 10. EPA shall be entitled to draw upon the standby
20 letter of credit by sending to the institution that issued the
21 letter of credit a written demand for a sum certain accompanied by
22 an unsworn statement that the demanding official reasonably
23 believes that Alcan has been in default of a payment obligation
24 hereunder for more than 30 (thirty) days and that the amount,
25 including stipulated penalty, is due and owing. Demand for payment
26 under a standby letter of credit may only be made by the Regional

1 Administrator, Region IX, Deputy Regional Administrator, Region IX,
2 Director of the Hazardous Waste Management Division, Deputy
3 Director of Superfund Programs, or persons in equivalent positions.
4 The parties recognize that Alcan's payment obligations may exceed
5 the amount of the security provided, and expressly agree that any
6 draw upon the standby letters of credit by EPA does not constitute
7 a waiver of any claim against Alcan for any difference between
8 Alcan's obligation hereunder and the amount collected under the
9 standby letter of credit. Alcan shall receive credit against its
10 obligations under this Consent Decree for any payment of response
11 costs under the standby letters of credit.

12 11. Alcan shall notify EPA of the establishment of each
13 letter of credit, its extension or substitution by sending an
14 executed copy to the persons identified in Paragraph 15 and
15 identifying the name and address of the bank and the agent
16 responsible for administering the standby letter of credit. Alcan
17 shall deliver a copy of any substitute standby letter of credit (or
18 any agreement for the extension of an existing standby letter of
19 credit) to EPA at least 60 days prior to the expiration of the
20 existing letter of credit. In the event Alcan fails to timely
21 provide EPA proof of a substitution standby letter of credit (or an
22 extension of the existing letter of credit) Alcan shall be in
23 default under this Consent Decree and EPA may, with ten days
24 written notice to Alcan, make demand upon the issuer of the standby
25 letter of credit for the immediate payment of the face amount of
26 the standby letter of credit. Funds obtained by virtue of such a

1 default will be applied to Alcan's obligations under this Partial
2 Consent Decree, and any excess shall be forfeited as a stipulated
3 penalty for the default.

4 12. Payment of sums due for costs under Paragraph 6 or
5 for stipulated penalties under Paragraph 17, shall be made by
6 certified check made payable to the "EPA Hazardous Substances
7 Superfund" and remitted to the United States Environmental
8 Protection Agency-Superfund Lockbox, at the following address:
9 United States Environmental Protection Agency, Superfund
10 Accounting, Post Office Box 371003M, Pittsburgh, PA 15251. The
11 transmittal of such payment(s) shall reference that the payment is
12 for Response Costs incurred at the Stringfellow Site Mid-Canyon
13 Pretreatment Plant and shall be accompanied by correspondence
14 containing the following identifying information: United States v.
15 J. B. Stringfellow et. al, Civil Action No. 83-2501-JMI (MX),
16 Department of Justice File No. 90-11-2-24, EPA Site Number 9-01,
17 and the name and complete address of the paying party. Within five
18 days of each payment, Alcan shall send copies of the transmittal
19 letter and a photostatic copy of its check to the persons
20 identified in Paragraph 15.

21 13. Alcan is encouraged to develop, prepare, and submit,
22 at its own expense, value engineering change proposals ("VECP") for
23 the improvement of the operation or maintenance of the Mid-Canyon
24 Pretreatment Plant. Submission of such proposals is voluntary on
25 the part of Alcan and is intended solely to provide a mechanism for
26 Alcan to make suggestions for improving the operation of the Mid-

1 Canyon Pretreatment Plant. EPA is under no obligation to act upon,
2 or respond to, any VECP submitted by Alcan, and any action or
3 inaction by EPA to a submittal by Alcan shall not be subject to
4 judicial review. EPA may request additional information to
5 evaluate the VECP. A copy of all VECP submittals shall be sent to
6 the State of California as provided in Paragraph 15.

7
8 14. As a minimum, Alcan shall include in each VECP the
9 information described in Subparagraphs A through F below.

10 A. A description of the difference between the existing
11 contract requirement and the proposed requirement, the
12 comparative advantages and disadvantages of each, a
13 justification when an item's function or characteristics
14 are being altered, the effect of the change on system
15 performance, and any pertinent objective test data.

16 B. A list and analysis of the contract requirements
17 that must be changed if the VECP is accepted, including
18 any suggested specification revisions.

19 C. A separate, detailed cost estimate for (1) the
20 affected portions of the existing contract requirement
21 and (2) the VECP. The cost reduction associated with the
22 VECP shall take into account the contractor's allowable
23 development and implementation costs, including any
24 amount attributable to subcontracts utilized by the
25 contractor.

26 D. An analysis of the effect the proposed change would
have on the ability of the Mid-Canyon Pretreatment Plant

1 to meet any permit requirements and any applicable or
2 relevant and appropriate standards for operation of
3 treatment, storage, and disposal of wastes.

4
5 E. A description and estimate of costs the Government
6 may incur in implementing the VECP, such as test and
7 evaluation, and operating and support costs.

8 F. A prediction of any effects the proposed change
9 would have on collateral costs to EPA.

10 15. Except as provided in Paragraphs 6 and 7, above
11 (payment of costs), whenever, under the terms of this Consent
12 Decree, written notice is required to be given or a report or other
13 document is required to be sent by one party to another, it shall
14 be directed to the individuals at the addresses specified below,
15 unless those individuals or their successors give notice of a
16 change to the other party in writing. All notices and submissions
17 shall be considered effective upon receipt. Written notice as
18 specified herein shall constitute complete satisfaction of any
19 written notice requirement of the Consent Decree with respect to
20 the United States, EPA, and Alcan, respectively.

21 A. Notices and submissions by Alcan shall be sent to:

22 Karen Ueno, Remedial Project Manager
23 Superfund Program
24 Remedial Action Branch H-6-1
25 United States Environmental Protection Agency
26 75 Hawthorne Street
San Francisco, CA 94105

1 and to,

2 Assistant Attorney General
3 United States Department of Justice
4 Environment and Natural Resources Division
5 Post Office Box 7611
6 Ben Franklin Station
7 Washington, D.C. 20044

8 B. Notices from the United States to Alcan shall
9 be sent to each of the following in seperate
10 envelopes:

- 11 i. Treasurer,
12 ii. Secretary, and
13 iii. Lawrence A. Salibra, II, Senior Counsel.

14 Each Notice Shall be mailed to the addressee
15 at:

16 Alcan Aluminum Corporation
17 Post Office Box 6977
18 Cleveland, OH 44101

19 C. Copies of Value Engineering Change Proposals
20 that are to be sent to the State of California shall
21 be sent to:

22 Beth Jines
23 Department of Toxic Substances Control
24 1800 Third Street
25 Suite 311
26 Sacramento, CA 95814

16. For the purposes of this Consent Decree, if a certified mail return receipt does not indicate the date of receipt, the letter shall be deemed to have been received five days after the postmark.

V. STIPULATED PENALTIES

17. Alcan shall be liable to the United States for the stipulated penalties specified in the table below for failure to make payments within the time specified in Paragraph 6. In the table below, the period of noncompliance indicates the period of time commencing the day a payment becomes delinquent as defined by Paragraph 6. Penalties for noncompliance for Days One through 30 are successive rather than cumulative. Penalties for noncompliance after Day 30 are cumulative.

<u>Penalty</u>	<u>Period of Noncompliance</u>
1. 1% (One Percent) of the unpaid bill	1. Day One through Five.
2. 2% (Two Percent) of the unpaid bill	2. Day Six through Ten.
3. 5% (Five Percent) of the unpaid bill	3. Day 11 through 30.
4. 5% (Five Percent) of the unpaid bill plus \$1,000 per day	4. Day 31 until paid.

18. All penalties shall begin to accrue on the day after payment or complete performance is due and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

1 19. Following EPA's determination that Alcan has failed
2 to comply with a requirement of this Consent Decree, EPA may give
3 Alcan written notification of the same and describe the
4 noncompliance. EPA may send Alcan a written demand for the payment
5 of the penalties. However, penalties shall accrue as provided in
6 the preceding paragraph regardless of whether EPA has notified
7 Alcan of a violation.

8 20. All penalties owed to the United States under this
9 section shall be due and payable within 30 days of the receipt from
10 EPA of a demand for payment of the penalties. All payments under
11 this Section shall be paid by certified check made payable to "EPA
12 Hazardous Substances Superfund," and shall be made in the same
13 manner prescribed for payments under Paragraph 12 above.

14 21. If Alcan fails to pay stipulated penalties when due,
15 the United States may institute proceedings to collect the
16 penalties, as well as interest. Alcan shall pay interest on the
17 unpaid balance, which shall begin to accrue on the date of demand
18 at the rate established pursuant to Section 107(a) of CERCLA,
19 42 U.S.C. § 9607.

20 22. Nothing in this Consent Decree shall be construed as
21 prohibiting, altering, or in any way limiting the ability of the
22 United States to seek any other remedies or sanctions available by
23 virtue of Alcan's violation of this Decree or of the statutes and
24 regulations upon which it is based, including, but not limited to,
25 penalties pursuant to Section 122(1) of CERCLA.
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2 23. No penalty payments made under this Section shall be
3 tax deductible for Federal tax purposes.

4 VI. COVENANT NOT TO SUE

5 24. This Consent Decree does not resolve any claims of
6 the United States against Alcan, and the parties expressly agree
7 that it does not constitute or effect any release from liability.
8 However, in recognition of the considerable expense of Alcan's
9 undertaking herein, the United States provides the following
10 limited covenant not to sue that, in effect, creates a limited
11 moratorium on certain enforcement actions during the time Alcan
12 performs under this Consent Decree. \ Provided Alcan meets all of
13 its obligations under this Consent Decree, the United States
14 covenants that, during the four year period that Alcan is
15 responsible for paying for the operation and maintenance of the
16 Mid-Canyon Pretreatment Plant (January 1, 1992 through December 31,
17 1995), the United States will not seek to require Alcan to perform
18 any additional remedial actions that were selected in the 1990 ROD
19 other than those activities encompassed by the operation and
20 maintenance of the Mid-Canyon Pretreatment Plant. In addition, to
21 the extent the United States obtains an agreement from some or all
22 of the other defendants in this action to perform work selected in
23 the 1990 ROD, the United States will seek first to enforce any such
24 consent decree against those defendants before seeking to require
25 Alcan to perform the same work. The United States further
26 covenants to seek first to recover from the defendants who are
signatories to the Stipulation, Recommendation of Special Master

1 and Order adopted by this Court on September 9, 1991 (the
2 "Stipulation"), all past costs liquidated under the Stipulation.
3 The United States reserves all rights to recover from Alcan costs
4 covered by the Stipulation in the event the United States is unable
5 to enforce a judgment against the Stipulation's signatories because
6 of their insolvency. The United States also reserves the right:
7 (1) to recover from Alcan at any time any response costs not
8 liquidated pursuant to the Stipulation; (2) to seek to require
9 Alcan at any time to perform or pay for any response action not
10 encompassed within the 1990 ROD, including but not limited to, any
11 removal action or additional remedial action selected by EPA
12 subsequent to the 1990 ROD; and (3) to require Alcan to perform any
13 remedial actions, including operation and maintenance activities,
14 selected by the 1990 ROD which have not been completed at the
15 termination of Alcan's obligation to fund the Mid-Canyon
16 Pretreatment Plant pursuant to this Consent Decree.

17 VII. EFFECT OF CONSENT DECREE

18 25. Nothing in this Consent Decree shall be construed to
19 create any rights in, or grant any cause of action to, any person
20 not a party to this Consent Decree. The preceding sentence shall
21 not be construed to waive or nullify any rights that any person not
22 a signatory to this decree may have under applicable law. Each of
23 the Parties expressly reserves any and all rights (including, but
24 not limited to, any right to contribution), defenses, claims,
25 demands, and causes of action which each party may have with
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1 respect to any matter, transaction, or occurrence relating in any
2 way to the Site against any person not a party hereto.

3 26. The parties enter into this Consent Decree and
4 submit it to the Court for approval and entry, and agree that upon
5 receipt of all payments and performance of all activities required
6 herein, upon certification pursuant to Paragraph 32 below, Alcan
7 shall be deemed to have fully and completely satisfied the
8 requirements of this Consent Decree.

9 VIII. WAIVER OF CLAIMS

10 27. In consideration of the entry of this Consent
11 Decree, Alcan agrees not to make any claims against the Hazardous
12 Substances Superfund established by 26 U.S.C. § 9507, including any
13 claim pursuant to Sections 106(b)(2), 111, and 112 of CERCLA,
14 42 U.S.C. §§ 9606(b)(2), 9611 and 9612, or any other provision of
15 law, directly or indirectly, for response costs or for attorney's
16 fees related to this action and this Consent Decree. Nothing in
17 this Consent Decree shall be deemed to constitute preauthorization
18 of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C.
19 § 9611, or 40 C.F.R. § 300.700(d).

20 VIX. RESERVATION OF RIGHTS

21 28. This Consent Decree does not constitute or
22 effect any release from the claims stated in the Complaint. The
23 United States reserves all claims, demands and causes of action,
24 past or future, judicial or administrative, in law or equity, that
25 it may have or which may yet accrue against Alcan. All claims or
26 defenses which the United States or Alcan may have against any

1 other person or entity not a party to this Consent Decree,
2 including but not limited to, claims for indemnity or contribution
3 pursuant to Section 113(f) of CERCLA, are expressly reserved.
4 Nothing contained herein shall in any way limit or restrict the
5 response authorities of the United States under applicable law,
6 including, but not limited to Sections 104 and 106 of CERCLA, 42
7 U.S.C. §§ 9604 and 9606, or the ability to recover response costs
8 from any person including Alcan, pursuant to Section 107 of CERCLA,
9 except to the extent of the moratorium created by the covenant not
10 to sue. The United States further reserves all rights to pursue a
11 claim for civil penalties and/or punitive damages against Alcan
12 arising out of Alcan's failure to comply with Administrative Order
13 Docket No. 88-14, issued May 13, 1988.

14 29. Nothing contained in this Decree shall be construed
15 to limit the right of the United States to take legal or
16 administrative action to enforce federal or state environmental
17 laws.

18 X. MODIFICATION

19 30. There shall be no modification of this Consent
20 Decree except by written agreement of the parties.

21 XI. RETENTION OF JURISDICTION

22 31. This Court retains jurisdiction over this Decree to
23 enforce, construe, implement, modify, terminate, or reinstate the
24 terms of the Decree, or to provide any further relief as the
25 interests of justice may require, consistent with this Decree.
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1 32. The obligations of Alcan under this Consent Decree
2 shall terminate upon written confirmation by the United States to
3 the Court that Alcan's obligations pursuant to this Decree have
4 been satisfied.

5 XII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

6 33. Upon execution of this Consent Decree by all
7 parties, it shall be lodged with the Court, during which time
8 notice of this Decree shall be published in the Federal Register.
9 Such notice shall provide for a period of thirty (30) days for
10 public comment, pursuant to 28 C.F.R. § 50.7. The United States
11 reserves the right to withdraw or withhold its consent if the
12 comments concerning this Decree disclose facts or considerations
13 which indicate this Decree is inappropriate, improper, or
14 inadequate. Alcan consents to entry of this Consent Decree without
15 further notice. All parties reserve the right to oppose an attempt
16 by any person to intervene in this action.

17 XIII. EFFECTIVE DATE

18 34. The Consent Decree shall be effective on the date
19 that it is entered by the Court.
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XIV. SUBMITTAL TO THE COURT

35. The Parties by their duly authorized representatives have executed this Partial Consent Decree and submit it to the Court that it may be approved and entered.

FOR PLAINTIFF

Date: Jul 24 1992

By: Vicki O'Meara
VICKI A. O'MEARA
Acting Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice
10th and Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Date: 7/16/92

By: Phillip A. Brooks
PHILLIP A. BROOKS
Senior Counsel
Environmental Enforcement Section
U.S. Department of Justice
301 Howard Street
Suite 870
San Francisco, CA 94105

Date: 7/29/92

By: Phillip Brooks for
LOURDES G. BAIRD
United States Attorney
Central District of California
PETER HSIAO
Assistant United States Attorney
Federal Building
Room 7516
300 North Los Angeles Street
Los Angeles, California 90012
(213) 894-6117

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4 Date: 7.16.92

By:

Daniel W. McGovern
DANIEL W. MCGOVERN
Regional Administrator
U.S. Environmental Protection
Agency - Region IX
75 Hawthorne Street
San Francisco, California 94105

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9 Date: JUL 14 1992

By:

Joanne S. Marchetta for
JOANNE S. MARCHETTA
Assistant Regional Counsel
U.S. Environmental Protection
Agency - Region IX
75 Hawthorne Street
San Francisco, California 94105

FOR DEFENDANT

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14
15 Date: January 7, 1992

By:

David W. Hackbirth
DAVID W. HACKBIRTH
President
Alcan Aluminum Corporation
Post Office Box 6977
Cleveland, Ohio 44101

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21 Date: 1/7/92

By:

Saneord Yosowitz
SANEORD YOSOWITZ
Secretary
Alcan Aluminum Corporation
Post Office Box 6977
Cleveland, Ohio 44101

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3 Date:

January 7, 1992

By:

Lawrence A. Salibra, II
Senior Counsel
Alcan Aluminum Corporation
Post Office Box 6977
Cleveland, Ohio 44101

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8 APPROVED AND ENTERED THIS _____ DAY OF _____, 1992.

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12 United States District Judge
Central District of California
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